Subsequent to the Pittsburgh lawsuit, a widely-known law authority and teacher discussed the academic questions of liability in his column in the Cleveland Plain Dealer...

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# Cigarette, Cancer Tie Is in Courts

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Do cigarettes cause lung cancer? And if they do, should cigarette companies be held legally liable? Three courts were called on to decide these questions recently, with no clearcut decision reached.

The latest case, only days ago, involved a Pittsburgh man who claimed that cigarette smoking had caused him to suffer lung cancer. He sued the cigarette company in the federal distict court in Pittsburgh. For 20 days a jury listened to expert medical witnesses who testified pro and con on the question. At the end of the testimony the judge refused to let the jury decide, and directed a verdict for the cigarette company. The plaintiff's attorney at once filed an appeal, asserting that the jury should have been allowed to decide the case. A new trial may be the result.

Back of the main question in the case was a second—perhaps more important question. The main question was (and is) does cigarette smoking directly cause lung cancer? The second question is, does the man who smokes cigarettes assume the risk of contracting cancer?

The judge's decision in the Pittsburgh case said, in effect, that (1) there is no clear proof that cigarettes did cause the man's lung cancer; (2) even if they did cause cancer, the smoker assumed the risk; and (3) the cigarette company did not guarantee (warrant) that cigarettes are not somehow harmful to users.

Recently two similar cases were dismissed on technical grounds, one in New Orleans and one in Florida. In both those cases, too, no clear decision was reached.

The trouble is that physicians, men trained in scientific reasoning, recognize only one test of cause and effect—absolutely "yes" or "no" in any case. If they cannot positively say "yes," they must say "no." But lawyers do not need or want positive yes or no answers. "Probably" is a good enough answer to settle a dispute between a plaintiff and a defendant in a lawsuit. So the doctors often cannot give scientific answers that the courts want, and the courts cannot get them to give legal answers that the doctors believe to be unscientific. This is a subject of exasperated debate between the legal and the medical professions.

The cigarette-cancer debate has not yet been settled. But one thing is clear, either way. Today we all know that there is a real possibility that cigarettes do cause lung cancer. Then surely the man who goes right on smoking cigarettes has no right to complain. He knows that he is running a risk. If the danger turns out to be real it seems unfair for him to complain. He could stop inviting the danger by stopping smoking. Self control avoids many dangers, and is a virtue as well.

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